

AGREEMENT BETWEEN SYMBOL TECHNOLOGIES, INC. AND
THE U. S. ATTORNEY'S OFFICE FOR THE EASTERN DISTRICT OF NEW YORK

SYMBOL TECHNOLOGIES, INC. ("Symbol"), by its undersigned attorneys, pursuant to authority granted by its Board of Directors, and the UNITED STATES ATTORNEY'S OFFICE FOR THE EASTERN DISTRICT OF NEW YORK (the "Office"), hereby enter into this Agreement (the "Agreement"). Except as specifically provided below, the Agreement shall be in effect for a period of three years from the date it is fully signed and executed.

1. The Office has informed Symbol that it is a target of an investigation being conducted by a grand jury sitting in the Eastern District of New York, with the assistance of the United States Postal Inspection Service (the "Postal Inspection Service"), involving accounting and financial fraud at Symbol. Symbol also has been informed by the United States Securities and Exchange Commission (the "SEC") that the SEC also is conducting an investigation of Symbol's accounting practices (the "SEC Investigation").

2. Symbol acknowledges that, as set forth in detail in Exhibit A, in or about and between 1999 and 2002, as a result of the conduct of certain Symbol officers, executives and employees, Symbol (a) violated federal criminal law in connection with accounting practices involving fabricated and other improper sales transactions, unsupported and fictitious accounting entries and the manipulation of Symbol's accounting reserves and expenses; and (b) filed and caused to be filed materially false and misleading financial statements and other documents with the SEC (collectively, "the Unlawful Practices").

3. Symbol accepts responsibility for its conduct by entering into this Agreement and by, among other things, the remedial actions that it has taken to date, its continuing

commitment to full cooperation with the Office, the Postal Inspection Service and the SEC (collectively, the "Investigative Entities"), and the other undertakings it has made as set forth in this Agreement.

4. In March 2002, Symbol retained the law firm Swidler Berlin Shereff Friedman, LLP to conduct an internal investigation into Symbol's accounting and financial practices. The investigation was conducted with the assistance of an outside forensic accounting team and involved more than 200 interviews and the review of hundreds of thousands of pages of documents and emails. Pursuant to the agreement among the Office, the SEC and Symbol dated November 19, 2002 (the "Confidential Materials Agreement"), Symbol has shared the results of its investigation, including documents that could have otherwise been withheld under the attorney-client privilege and the work product doctrine, with the Investigative Entities. Symbol acknowledges that its prior, ongoing and future cooperation are important factors in the Office's decision to enter into the Agreement, and therefore, Symbol agrees to continue to cooperate fully with the Investigative Entities regarding any matter about which Symbol has knowledge.

5. Symbol agrees that its cooperation shall include, but is not limited to, the following:

(a) Completely and truthfully disclosing all information in its possession to the Investigative Entities about which the Investigative Entities may inquire;

(b) Assembling, organizing and providing all documents, records, or other tangible materials in Symbol's possession, custody, or control as reasonably may be requested

by any of the Investigative Entities, including, without limitation, "Confidential Materials" as that term is defined in the Confidential Materials Agreement, which is incorporated by reference herein and attached hereto as Exhibit B;

(c) Providing any documents, records, information, or testimony requested by the Office, to the extent provided for and pursuant to the terms of the Confidential Materials Agreement;

(d) Using its reasonable best efforts to make available its present and former employees to provide information and/or testimony as requested by any of the Investigative Entities, including, without limitation, sworn testimony in court proceedings, as well as interviews with law enforcement authorities. Cooperation under this paragraph shall include identification of witnesses who, to Symbol's knowledge, may have material information regarding its conduct;

(e) Providing testimony and other information deemed necessary by any of the Investigative Entities or a court to establish the evidentiary foundation necessary to admit into evidence documents in any criminal or other proceeding; and

(f) With respect to any information, testimony, document, record or other tangible material provided by Symbol to the Office or a grand jury, other than the Confidential Materials, Symbol consents to any and all disclosures of such materials to any other governmental agency designated by the Office as the Office, in its sole discretion, deems appropriate. With respect to any such materials that constitute "matters occurring before the grand jury" within the meaning of Rule 6(e) of the Federal Rules of Criminal Procedure, Symbol further consents to (a) any

order sought by the Office permitting such disclosures; and (b) the Office's ex parte or in camera application for such orders.

6. Symbol agrees to pay a total of \$139 million in stock and cash for purposes of compensation of shareholders for losses arising out of and in connection with the Unlawful Practices ("the Compensation Fund"), including for the resolution of the SEC Investigation and the pending class action litigations before the United States District Court, Eastern District of New York, entitled In re Symbol Technologies Litigation, 02 CV 1383 (LDW), Hoyle v. Symbol Technologies, Inc., 03 CV 1394 (LDW) and Salerno v. Symbol Technologies, Inc., 03 CV 2208 (LDW) (the "Shareholder Litigation"). The Compensation Fund shall be distributed in accordance with the final orders of the District Court overseeing the Shareholder Litigation. As part of the Compensation Fund, Symbol agrees to pay \$37 million in cash in accordance with the terms of a Final Consent Judgment of Permanent Injunction and Other Relief as to Defendant Symbol Technologies, Inc., which will be submitted to the Court in the civil action that the SEC will commence against Symbol with respect to the Unlawful Practices (the "Cash Fund Payment").

7. Symbol shall ensure that any settlement agreement in the Shareholder Litigation shall provide that no portion of the Cash Fund Payment shall be disbursed to pay any attorney's fee or expenses arising out of or in connection with the Shareholder Litigation. Symbol also agrees that any such settlement agreement shall provide that the amount of the Cash Fund Payment shall not be used in any way to calculate or determine the amount of attorney's fees or expenses to be paid to counsel for the plaintiffs in the Shareholder Litigation or to

counsel for any other private parties seeking distribution of any portion of the Cash Fund Payment. Symbol further agrees that any settlement agreement in the Shareholder Litigation shall contain provisions necessary to effectuate the provisions of this paragraph.

8. Symbol also agrees to pay \$3 million by certified check or bank cashier's check to the United States Postal Inspection Service Consumer Fraud Fund immediately upon execution of this Agreement.

9. Symbol represents that its Board of Directors and current Senior Management have taken numerous remedial actions in response to the misconduct at Symbol that has been discovered by its internal investigation and the investigations conducted by the Investigative Entities. These remedial actions (collectively, the "Remedial Actions, Policies and Procedures") include:

- a. the termination of employees at all levels of the company whose improper activities and/or lax supervision resulted in improper accounting and inaccurate financial reporting;
- b. the termination of employees who refused to cooperate with the Symbol's internal investigation or who took steps to obstruct or impede that investigation;
- c. the appointment of new management, including a new President and Chief Executive Officer, a new Chief Financial Officer, new Senior Vice Presidents of Finance, Sales, Operations, Global Products and Customer Service, a new General Counsel and Secretary and a new Chief Information Officer;
- d. the dismissal of its former auditing firm and the retention of a new firm;

e. the formation of a new Disclosure Committee composed of the Chief Executive Officer, President and Chief Operating Officer, Chief Financial Officer, Senior Vice President - Finance and Business Controller, Chief Accounting Officer and General Counsel, that meets prior to significant filings with the SEC and the issuance of significant press releases;

f. the restructuring of the Board of Directors, including the splitting of the Chief Executive Officer and Chairman functions and the appointment of a non-executive Chairman;

g. the revision of the Board of Director's Audit Committee charter to grant the Audit Committee greater responsibility and authority to oversee financial matters;

h. the implementation of numerous new accounting and financial controls, including the centralization of Symbol's finance functions, the commitment to spend approximately \$100 million to upgrade the company's accounting and data management processes, the establishment of a formal review process for all large-dollar transactions and for other non-standard transactions, and the strengthening of the internal audit and month-end review process; and,

i. the creation and maintenance of a confidential hotline to provide a means for employees anonymously to report any potential violations of law or other misconduct.

10. Symbol agrees that it will establish and maintain a training and education program for certain of its directors, officers and employees designed to minimize the possibility of future violations of the federal securities laws by Symbol. Completion of such training shall be mandatory for (a) members of the Audit Committee of Symbol's Board of Directors; (b) all

Symbol officers, executives and employees who are involved in accounting and financial reporting functions, whether at the corporate or the division level, including but not limited to each officer or employee responsible for closing the books within his or her area of responsibility at the end of a quarterly or annual reporting period; and (c) all senior operational officers and executives at Symbol, at both the corporate and division level (the "Mandatory Participants"). Such training and education program will cover, at a minimum, the following subjects: the obligations imposed by the federal securities laws; proper internal accounting controls and procedures; discovering and recognizing indications of fraud and accounting practices that do not conform to Generally Accepted Accounting Practices or that are otherwise improper; and the obligations assumed by, and responses expected of, Symbol's directors, officers and employees upon learning of improper, illegal or potentially illegal acts relating to Symbol's accounting and financial reporting. Symbol shall commence providing the training mandated by this paragraph within 60 days after the date of the execution of this Agreement and shall, at that time, submit to the Office a written description of the content and planned implementation of the training and education program. Following the completion of the required training and education for all Mandatory Participants, Symbol shall continue to provide such training and education on an annual basis for all those who become Mandatory Participants during the preceding twelve months.

11. Symbol agrees that during the term of this Agreement it will retain an independent examiner that is acceptable to the Office and the Staff of the SEC (the "Independent Examiner"), to monitor Symbol's internal controls and financial reporting

practices and its compliance with this Agreement. The Independent Examiner will, among other things, and without limitation on any other obligation imposed by law:

- (a) annually review Symbol's revenue recognition and accounting practices;
- (b) annually review Symbol's internal accounting control structure and systems (the Independent Examiner, in determining the scope of any subsequent annual internal control review, may in its discretion rely on the results of its prior annual review in this area);
- (c) annually review Symbol's implementation of, and compliance with, the Remedial Actions, Policies and Procedures; and
- (d) report on an annual basis to the General Counsel of Symbol, the Office and the Staff of the SEC as to the propriety of Symbol's revenue recognition and accounting practices, the effectiveness of its internal accounting control structure and systems, and the effectiveness of the Remedial Actions, Policies and Procedures (each such report being referred to as the "Report").

After receiving each Report, Symbol's General Counsel will present the Report to Symbol's Board of Directors, including its Audit Committee, for their review. Copies of the Report shall also be submitted to the Office and the Staff of the SEC on an annual basis. Symbol agrees that the Independent Examiner will have access to any and all materials relating to Symbol's business and that all Symbol employees will be directed to cooperate fully with the Independent Examiner.

12. In consideration of Symbol's (a) acceptance of responsibility for its conduct as acknowledged herein; (b) cooperation-to-date and agreement to continue to cooperate with

the Investigative Entities; (c) agreement to make the payments set forth in paragraphs 6-8 above; (d) implementation of the Remedial Actions, Policies and Procedures; and (e) agreement otherwise to comply with all of the terms of this Agreement, the Office agrees that, except as provided in paragraphs 13-16 below, Symbol will not be prosecuted for the Unlawful Practices.

13. Symbol understands and agrees that should the Office, in its sole discretion, determine that Symbol deliberately has given false, incomplete, or misleading information under this Agreement, has otherwise deliberately violated any provisions of the Agreement or has committed, or attempted to commit, any crimes other than crimes relating to the Unlawful Practices, Symbol shall thereafter be subject to prosecution for any federal criminal violation of which the Office has knowledge, including a prosecution relating to the Unlawful Practices. Moreover, Symbol agrees that any prosecution relating to the Unlawful Practices that is not time-barred by the applicable statute of limitations on the date of this Agreement may be commenced against Symbol in accordance with this Agreement, notwithstanding the expiration of any statute of limitations. By this Agreement, Symbol expressly intends to and does waive any rights in this respect. Such waiver is knowing, voluntary and in express reliance on the advice of Symbol's counsel.

14. Symbol further understands and agrees that in the event that the Office, in its sole discretion, determines that Symbol has knowingly violated any provision of this Agreement or has committed or attempted to commit any crimes other than crimes relating to the Unlawful Practices, (a) all statements made by or on behalf of Symbol to any of the Investigative Entities, including the acknowledgment and acceptance of responsibility set forth in this Agreement and

Exhibit A, and any testimony given by Symbol before a grand jury or elsewhere, whether before or after the date of this Agreement, and any leads derived from such statements or testimony, shall be admissible in evidence in any criminal proceeding brought by the Office against Symbol; and (b) Symbol shall not assert in any criminal proceeding brought by the Office against Symbol any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule or provision, that statements made by or on behalf of Symbol before or after the date of this Agreement, or any leads derived therefrom, should be suppressed.

15. Symbol agrees that the decision whether conduct and/or statements of any individual will be imputed to Symbol for purposes of determining whether Symbol has violated any provision of this Agreement shall be in the sole discretion of the Office, provided, however, that the statements of any former officer, director or employee of Symbol shall not be attributed to Symbol for the purposes of paragraphs 13-15. Should the Office determine that Symbol has committed a knowing breach of any provision of this Agreement, the Office will provide written notice to Symbol addressed to its General Counsel, Peter Lieb, Esq., One Symbol Plaza, Holtsville, New York 11742-1300, and to Symbol's counsel, Andrew J. Levander, Esq., Swidler Berlin Sheriff Friedman, LLP, The Chrysler Building, 405 Lexington Avenue, New York, New York 10174, or to any successor that Symbol may designate, and will provide Symbol with a two-week period from the date of receipt of such notice in which to make a presentation to the Office to demonstrate that no breach has occurred or, to the extent relevant, that the breach was not knowing or had been cured. Symbol understands and agrees that the exercise of discretion by the Office is not subject to review in any court or tribunal outside the Department of Justice.

16. Symbol agrees that it shall not, through its attorneys, Board of Directors,

agents, officers or employees, make any public statement, in litigation or otherwise, contradicting its acceptance of responsibility or Exhibit A. Any such contradictory statement by Symbol, its present or future attorneys, Board of Directors, agents, officers or employees shall constitute a breach of this Agreement and Symbol thereafter shall be subject to prosecution as set forth in paragraphs 13-15. The decision as to whether any such contradictory statement will be imputed to Symbol for the purpose of determining whether Symbol has breached this Agreement shall be at the sole discretion of the Office. Upon the Office's notifying Symbol of any such contradictory statement, Symbol may avoid a breach of this Agreement by publicly repudiating such statement within 72 hours after notification by the Office. This paragraph is not intended to apply to any statement made by any Symbol officer, director or employee or former officer, director or employee who has been charged with a crime or other wrongdoing by the government or an agency thereof.

17. Symbol agrees that, if it sells or merges all or substantially all of its business operations as they exist as of the date of this Agreement to or into a single purchaser or group of affiliated purchasers during the term of this Agreement, it shall include in any contract for sale or merger a provision binding the purchaser/successor to the obligations described in this Agreement.

18. Symbol agrees that, following expiration of this Agreement, Symbol will continue to cooperate with the Investigative Entities in connection with any proceeding relating to the Unlawful Practices. Symbol's obligation to cooperate is not intended to apply where Symbol is a defendant in any such proceeding.

19. It is understood that this Agreement is binding only on Symbol and the Office, and specifically does not bind any other federal agencies, any state or local law

enforcement agencies, any licensing authorities, or any regulatory authorities. However, the Office will bring the Agreement and Symbol's cooperation and the Remedial Actions, Policies and Procedures to the attention of other federal agencies, state or local law enforcement agencies, and any licensing or regulatory authorities if Symbol so requests. It is the intent of the parties to this Agreement that the Agreement does not confer or provide any benefits, privileges or rights to any individual or any entity other than the parties hereto, and that nothing in the Agreement shall be construed as acknowledging that the Agreement, including Exhibit A and the evidence underlying the Agreement and Exhibit A, shall be admissible in any proceeding other than a proceeding brought by the Office. No promises, agreements or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless memorialized in writing and signed by all parties. Apart from the Confidential Materials Agreement, this agreement supersedes any prior promises, agreements or conditions between the parties. To become effective, this agreement must be signed by all signatories listed below.

Dated: June 3, 2004
Brooklyn, New York

William Nuti
Chief Executive Officer
Symbol Technologies, Inc.

ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York

Salvatore Iannuzzi
Chairman of the Board of Directors
Symbol Technologies, Inc.

By: _____
Eric Corngold
Chief, Business and Securities Fraud Unit

Andrew J. Levander, Esq.
Counsel to Symbol Technologies, Inc.

David B. Pitofsky
Principal Deputy Chief, Criminal Division